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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2022

CORAM:

THE HONOURABLE Mr.JUSTICE R.SUBRAMANIAN

Tr.C.M.P.No.107 of 2021  
and  
C.M.P.No.3525 of 2021

1.Paramadayalan (died)  
Rep. By Power of Attorney Agent  
Mr.Subramanian  
S/o.Paramadayalan

2.Subramanian 1<sup>st</sup> Petitioner Died, ... Petitioners

[2<sup>nd</sup> petitioner is recorded  
as the legal representative of the  
first petitioner as per order dated  
31.01.2022 in CMP.No.14163 of 2021]

Vs.

1.Rajam

2.Veloumourougane

3.Poonamallee

4.Sactivel

5.Danalatchoumy

6.Mounissamy ... Respondents

Prayer: Petition filed under Section 24 of the Civil Procedure Code praying to withdraw and transfer O.S.No.27 of 2020 on the file of the Principal District Court, Cuddalore on the file of the Principal District Court, Puducherry.

For Petitioners : Mr.T.Sathiyamoorthy

For Respondents : Mr.S.Vadivel (for R2 & R6)

For RR 1, 3 & 5 : Service awaited



## ORDER

The petitioners seek transfer of O.P.No.27 of 2020 on the file of the Principal District Court, Cuddalore to the Principal District Court at Puducherry.

2. Transfer is sought for on the following grounds:

(i) in respect of the very same estate, a succession O.P.No.53 of 2019 pending on the file of the Principal District Court, Puducherry;

(ii) majority of the properties are situated within the limits of Puducherry;

(iii) all the parties are residents of Puducherry.

3. Mr.T.Sathiyamoorthy, learned counsel appearing for the petitioners would contend that except item 1 which are agricultural lands, other immovable properties are situated in Puducherry. The movable properties, which are subject matter of succession OP in S.O.P.No.53 of 2019, are fixed deposit with Bank in Puducherry. He would also point out that the plaintiffs as well as the defendants are residents of Puducherry. Therefore, according to him, it would be in the interest of all the parties that the transfers are holding at Puducherry.

4. Mr.S.Vadivel, learned counsel appearing for respondents 2 and 6 would submit that there are other legal representatives of the deceased first petitioner and they have to be impleaded. He would also submit that SOP relates to movable properties. The suit relates to immovable properties and therefore, both can be tried separately. I am unable to agree with this contention. The estate of the first petitioner needs to be represented. The second petitioner is son of the first petitioner. Though he claims unwell, he stationed at Puducherry is not disputed, therefore, he can represent the estate of the first petitioner for the purpose of the transfer petition. The most of the immovable properties are situated within Puducherry and the parties are also resident in Puducherry, therefore, a suit for partition can be filed at Puducherry also. If the proceedings in succession O.P.No.53 of 2019 and the suit are held separately, there is a possibility of controvert of judicial verdict.

5. Hence, I find that this is a fit case where both the proceedings should be held at the same place. The transfer C.M.P. is allowed. O.S.No.27 of 2020 is withdrawn from the file of the Principal District Court, Cuddalore and transferred to the Principal District Court, Puducherry to be tried and



disposed of along with S.O.P.No.53 of 2019 pending on its file.  
No costs. Consequently, connected civil miscellaneous petition  
is closed.

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Sd/-  
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Sgl

To

1.The Principal District Court,  
Cuddalore.

2.The Principal District Court,  
Puducherry.

+1cc to Mr.S.Vadivel, Advocate, S.R.No.5916

+1cc to Mr.S.Vadivel, Advocate SR.No.5917

[27/04/2022]

Tr.C.M.P.No.107 of 2021

MT (CO)  
SB(22/02/2022)